

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

ENVIRONMENTAL ASSESSMENT

Docket No. AB 290 (Sub-No. 364X)

**Norfolk Southern Railway Company LLC – Abandonment Exemption –
In the City of Hopewell, Virginia**

BACKGROUND

In this proceeding, the Norfolk Southern Railway Company (NSR) filed a petition under 49 U.S.C. § 10502 seeking exemption from the prior approval requirements of 49 U.S.C. § 10903 to abandon approximately 0.46 miles of rail line on its City Point Branch in the City of Hopewell, Virginia. The rail line proposed for abandonment extends from milepost CP 9.40 to milepost CP 9.86 (the Line). The rail line travels through industrial and residential land uses in a north-south direction and closely parallels the James River. The right-of-way width ranges from 50-feet to 100-feet and traverses U.S. postal zip code 23860. NSR indicates that there are no bridges or other structures in the area of the proposed abandonment.

NSR states that if abandonment authority is granted, it would convey the rail line right-of-way to the sole shipper on the Line, Regional Enterprises (Regional), for private use in support of its expanding transload operations. NSR has requested expedited consideration of its petition, stating that there are no shippers – local or overhead – that would be harmed as a result of the proposed abandonment. If the proposed abandonment is authorized, the Line would operate as private track not subject to the Surface Transportation Board’s (Board) jurisdiction. A map depicting the line in relationship to the area served is appended to this Environmental Assessment (EA).

ENVIRONMENTAL REVIEW

NSR submitted an environmental report that concludes the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. NSR served the environmental report on a number of appropriate federal, state, and local agencies as required by the Board’s environmental rules [49 C.F.R. § 1105.7(b)].¹ The Board’s Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

¹ The Environmental and Historic Reports are available for viewing on the Board’s website at www.stb.dot.gov by going to “E-Library,” selecting “Filings,” and then conducting a search for AB 290 (Sub-No. 364X).

Diversion of Traffic

NSR states that if the proposed abandonment is authorized, the Line would be converted to private use so that Regional, the lone shipper currently using the Line, may continue to use rail service for its operations. Accordingly, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

Salvage Activities

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way, or if necessary, via construction of new access points to the right-of-way. If abandonment authority is granted, NSR states that there would be no salvage. The Line would continue to operate and accordingly, there would be no impacts relating to the salvage process, including noise and air emissions.

Regional commented that it fully supports the proposed abandonment and that it is in the process of acquiring the Line for future use as a private track in support of its expanding transload operations. NSR has requested expedited consideration of its petition in order to accommodate Regional's intention to move forward with its transload facility's expansion plans as soon as possible following consummation, should the proposed abandonment be authorized.

The City of Hopewell commented that it supports the proposed abandonment and is interested in acquiring the right-of-way for future redevelopment. The City indicates that it would like to link the city center with the outlying James and Appomattox Rivers, and believes that such connections have the potential to spur economic growth and revitalization in accordance with the goals set forth in its Comprehensive and Strategic Economic Development Plans. Although the City has not formally filed a public use request with the Board for the right-of-way proposed for abandonment, OEA notes that NSR's filing specifically states that it would oppose any such request because it is in negotiations with Regional for Regional's future use of the Line as private track.

The National Oceanic and Atmospheric Administration's National Geodetic Survey (NGS) commented that two geodetic station markers may be located within the area of the proposed abandonment, and requests further consultation if disturbance is contemplated. Given that Regional is in the process of acquiring the Line for continued operations, OEA notes that no ground disturbance or redevelopment opportunities are contemplated as a result of the proposed abandonment. OEA therefore concludes that no further consultation with NGS is necessary.

The U.S. Fish and Wildlife Service (USFWS) commented that the Sensitive Joint-Vetch (*Aeschynomene virginica*), a federally listed threatened species, or its habitat, may occur in the project area, but added that its review is limited to construction projects or other similar undertakings. Given that Regional is in the process of acquiring the Line for continued

operations, OEA notes that no ground disturbance or redevelopment opportunities are contemplated as a result of the proposed abandonment. OEA therefore concludes that no further consultation with USFWS is necessary.

The U.S. Environmental Protection Agency (EPA), Region 3, commented that it consulted with the Commonwealth of Virginia permitting agency and determined that a National Pollutant Discharge Elimination System permit under Section 402 of the Clean Water Act would not be required because no ground disturbance would occur as a result of the proposed abandonment. OEA therefore concludes that no further consultation regarding this matter is necessary.

The U.S. Army Corps of Engineers (Corps) commented that the proposed abandonment would not involve any disturbance to waterways or wetlands, including the discharge of fill material in waters of the United States, and that a Corps permit under Section 404 of the Clean Water Act (33 U.S.C. § 1344) would not be required. OEA therefore concludes that no further consultation regarding this matter is necessary.

The Virginia Department of Environmental Quality (DEQ) commented that the City of Hopewell is in a designated Coastal Zone Management Area and is therefore subject to the consistency certification requirements of the federal Coastal Zone Management Act of 1986 and the Virginia Coastal Zone Management Program. DEQ commented that in order for it to complete its review, it needs NSR to submit its petition of exemption; a U.S. Geological Survey map; a description of the proposed action, including operational information; and a list of any probable impacts to coastal resources. Because NSR plans no ground disturbance or redevelopment as a result of the proposed abandonment, OEA believes that DEQ will be able to make a consistency determination. OEA has included a condition in this EA requiring NSR to continue consulting with DEQ until a consistency determination can be made.

Based on all information available to date, OEA does not believe that the proposed adverse abandonment would cause significant environmental impacts. In addition to the parties on the Board's service list for this proceeding, OEA is providing a copy of this EA to the following agencies for review and comment: the U.S. Department of Agriculture, Natural Resources Conservation Service; the National Park Service; the Virginia Department of Transportation; the Virginia Coastal Zone Management Program; and the Virginia Department of Historic Resources.

HISTORIC REVIEW

NSR submitted an historic report as required by the Board's environmental rules [49 C.F.R. § 1105.8(a)] and served the report on the Virginia Department of Historic Resources (State Historic Preservation Office or SHPO), pursuant to 49 C.F.R. § 1105.8(c). The report indicated that the line proposed for abandonment contains no bridges or other structures. NSR believes that the line would not be eligible for listing in the National Register of Historic Places (National Register) and that no archaeological resources would be disturbed as a result of the proposed abandonment, as no salvage or other ground disturbance activities are contemplated. The SHPO is currently reviewing the proposed abandonment, and in a letter dated July 24, 2014

(DHR File No. 2014-0799), indicated that it would need archival and mapping information.

Due to the potential presence of historic resources, OEA is recommending a condition that requires NSR to retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures and objects within the project right-of-way (the Area of Potential Effect) eligible for listing or listed in the National Register until completion of the Section 106 process. Guidance regarding the Board's historic preservation review process is available on the Board's website at <http://www.stb.dot.gov/stb/environment/preservation.html>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the Native American Consultation Database to identify federally-recognized tribes that may have ancestral connections to the project area.² The database indicated that there no federally recognized tribes that may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way (the APE) of the proposed abandonment.

CONDITIONS

We recommend that the following conditions be imposed on any decision granting abandonment authority:

1. Pursuant to the Coastal Zone Management Act (16 U.S.C. § 1451 *et seq.*) and the Board's environmental regulations at 49 C.F.R. § 1105.9, the Norfolk Southern Railway Company (NSR) shall consult with the Virginia Department of Environmental Quality's Coastal Zone Management Program and obtain state coastal management consistency certification. NSR may not file its consummation notice until it reports the results of these consultations in writing to the Board's Office of Environmental Analysis (OEA) and the Board has removed this condition.
2. NSR shall retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f, has been completed. NSR shall report back to OEA regarding any consultations with the State Historic Preservation Office and the public. NSR may not file its consummation notice until the Section 106 process has been completed and the Board has removed this condition.

² Native American Consultation Database, <http://grants.cr.nps.gov/nacd/index.cfm> (last visited August 25, 2014).

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed and if the recommended mitigation is imposed, abandonment of the line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad/applicant, within 10 days of the notice's publication in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 C.F.R. § 1152.29) and should address whether the issuance of a certificate of interim trail use in this case would be consistent with the grant of an adverse abandonment application.

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance (OPAGAC) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPAGAC directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this Environmental Assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Diana Wood, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's web site, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB 290 (Sub-No. 364X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Diana Wood, the environmental contact for this case, by phone at (202) 245-0302, fax at (202) 245-0454, or e-mail at woodd@stb.dot.gov.

Date made available to the public: September 3, 2014.

Comment due date: October 3, 2014.

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.

Attachment